

REMARKS

Claims 13-28 are pending in this application. By this amendment, Applicants amend claims 13 and 19, cancel claims 1-12 and add new claims 25-28.

Applicants have canceled claims 1-12 in view of the Restriction Requirement issued by the Examiner on September 11, 2001. Applicants reserve the right to file a Divisional Application to pursue allowance of claims 1-12.

Applicants enclose a copy of the Information Disclosure Statement filed on June 19, 2002, which the Examiner did not acknowledge receiving. Applicants respectfully request that the Examiner review the reference submitted with the IDS filed on June 19, 2002 and provide Applicants with an initialed PTO FORM 1449 indicating the Examiner's consideration of the reference.

Claims 13-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Slattery (U.S. Patent No. 4,737,418). Applicants respectfully traverse this rejection.

Applicants have amended Claim 13 to recite:

"A lid material for a lid which is to be fuse-bonded to a peripheral upper surface of a case having an open top and a housing space for an electronic component, the lid material comprising:

a core layer;

a nickel-based metal layer composed of a nickel-based metal mainly comprising nickel, an entire thickness of the nickel-based metal layer being press- and diffusion-bonded onto the core layer; and

a brazing material layer press-bonded onto the nickel-based metal layer, wherein the nickel-based metal layer has a maximum-to-minimum thickness ratio T1/T2 of 1.4 to 15" (emphasis added).

Applicants have also amended Claim 19 to include similar recitations of structure including the above-emphasized feature.

The Examiner acknowledged that Slattery merely teaches a partial press-bonding of a nickel-based metal overlayer to a core layer. More specifically, Slattery clearly teaches that the nickel layer has a first portion that is press-bonded and has a second portion that is electrodeposited. Thus, Slattery clearly teaches an entirely

different lid that is structurally and physically different from Applicants' claimed invention because a portion of the layer of the nickel is NOT press- and diffusion-bonded to the core layer.

Thus, Slattery clearly teaches away from Applicants' claimed invention since Slattery teaches that the nickel-based overlay should only be partially press-bonded and is not completely press-bonded onto a core layer, and instead clearly has a portion that is electrodeposited instead of being press- and diffusion-bonded to the core layer. Thus, Slattery cannot be used in an obviousness rejection of Applicants' claims since it is error to find obviousness where references diverge and teach away from the invention at hand. W.L. Gore & Assoc. v. Garlock Inc., 721 F .2d 1540, 1550, 220 USPQ 303, 311 (Fed. Cir. 1983).

As described above, Applicants' claimed invention is clearly physically and structurally different from the structure of Slattery.

Furthermore, the Examiner is incorrect in concluding that the favorable and advantageous results achieved by Applicants' claimed invention are not due to the feature of the entire thickness of the nickel-based metal layer being press- and diffusion-bonded to the core layer. Applicants' original specification clearly describes that this feature eliminates micro-holes and micro-cracks in the nickel based metal layers that are formed by other methods such as plating (e.g., electrodeposition as in Slattery). In addition, Applicants' claimed ratio of maximum-to-minimum thickness $T1/T2$ of 1.4 to 15 produces excellent press-bondability between the nickel-based metal layer and the brazing material layer.

It is noted that the Examiner has failed to specifically respond to Applicants' arguments presented in the response filed on June 6, 2002, that Slattery fails to teach or suggest Applicants' claimed range for the maximum-to-minimum thickness ratio $T1/T2$ of 1.4 to 1.5. At best, Slattery teaches a ratio of 1.05 which is clearly outside of Applicants' claimed range.

Thus, Slattery clearly fails to teach or suggest the unique claimed combination of features in Applicants' claims 13 and 19 including a nickel-based metal layer having an entire thickness that is press- and diffusion-bonded onto the core layer, AND, a

Serial No. 09/395,179
January 12, 2004
Page 7

maximum-to-minimum thickness ratio T1/T2 of 1.4 to 15.

In view of the foregoing remarks, Applicants respectfully submit that claims 13 and 19 are allowable. Claims 14-18 and 20-24 depend upon claims 13 and 19, respectively, and are therefore allowable for at least the reasons that claims 13 and 19 are allowable.

Claims 25-28 recite additional features of Applicants' claimed invention. Claims 25-28 depend upon claims 13 and 19 and are therefore allowable for at least the reasons that claims 13 and 19 are allowable. Furthermore, Slattery clearly fails to teach the specific claimed combinations including the features recited in claims 25-28.

In view of the foregoing Amendment and Remarks, Applicants respectfully submit that this application is in condition for allowance. Favorable consideration and prompt allowance are respectfully solicited.

The Commissioner is authorized to charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1353.

Respectfully submitted,



Attorneys for Applicant

Date: January 12, 2004

Joseph R. Keating
Registration No. 37,368

KEATING & BENNETT LLP
10400 Eaton Place, Suite 312
Fairfax, VA 22030
Telephone: (703) 385-5200
Facsimile: (703) 385-5080